

**FOR CONTRACT NO.: 07-4S2504**

# **INFORMATION HANDOUT**

## **ENCROACHMENT PERMITS**

**CITY OF MALIBU  
COASTAL ZONE DEVELOPMENT PERMIT**

**ROUTE: 1-LA-52.9/53.0**



## NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT

Date of Notice: June 1, 2010

**Notice Sent to (US. Certified Priority Mail):**

California Coastal Commission  
South Central Coast District Office  
89 South California Street, Suite 200  
Ventura, CA 93001

**Contact:**

Tiffany Edwards *TE*  
Assistant Planner  
City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265  
(310) 456-2489, ext. 353

Please note the following **Final City of Malibu Action** on a coastal development permit application (all local appeals have been exhausted for this matter):

**Project Information**

**Coastal Development Permit No. 09-061, Site Plan Review No. 10-001, and Capital Improvements Project No. 10-001** – An application for a drainage rehabilitation and slope repair along the northbound shoulder of Pacific Coast Highway, at a residentially developed parcel and offsite native tree mitigation, including a site plan review for remedial grading

Application Filing Date: October 5, 2009  
Applicant: California Department of Transportation  
100 S. Main St. MS#16A, Los Angeles, CA 90012  
Owner: James H. Cowan Trust  
Location: 6341.5 Ramirez Canyon Road / APN 0000-000-147

**Final Action Information**

Final Local Action: ☐ Approved ☒ Approved with Conditions ☐ Denied  
Final Action Body: Approved on May 18, 2010 by the Planning Commission

Required Materials Supporting the Final Action	Enclosed	Previously Sent (date)
Adopted Staff Report: May 18, 2010 Item 6.B. Planning Commission Agenda Report		May 6, 2010
Adopted Findings and Conditions: Planning Commission Resolution No. 10-46	X	
Site Plans and Elevations		May 6, 2010

**California Coastal Commission Appeal Information**

This Final Action is:

☐ **NOT appealable** to the California Coastal Commission (CCC). The Final City of Malibu Action is now effective.

☒ **Appealable** to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this final action. The final action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission South Central Coast District Office in Ventura, California; there is no fee for such an appeal. Should you have any questions regarding the California Coastal Commission appeal period or process, please contact the CCC South Central Coast District Office at 89 South California Street, Suite 200, Ventura, California, 93001 or by calling (805) 585-1800.

Copies of this notice have also been sent via first-class mail to:

- Property Owner/Applicant

Prepared by: Ryan Scates, Office Assistant

**CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 10-46**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU APPROVING COASTAL DEVELOPMENT PERMIT NO. 09-061, SITE PLAN REVIEW NO. 10-001, AND CAPITAL IMPROVMENTS PROJECT NO. 10-001 FOR A DRAINAGE REHABILITATION AND SLOPE REPAIR ALONG THE NORTHBOUND SHOULDER OF PACIFIC COAST HIGHWAY, AT A RESIDENTIALLY DEVELOPED PARCEL AND OFFSITE NATIVE TREE MITIGATION, INCLUDING A SITE PLAN REVIEW FOR REMEDIAL GRADING LOCATED AT 6341.5 RAMIREZ CANYON ROAD (CALIFORNIA DEPARTMENT OF TRANSPORTATION)**

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

- A. On April 16, 2009, an application for Administrative Plan Review (APR) No. 09-026 was submitted by Caltrans to the Planning Division for processing. The City Biologist informed Caltrans that the proposed native tree removal and remediation plan would require a CDP in order to be processed.
- B. On October 5, 2009, an application for CDP No. 09-061 was submitted by Caltrans to the Planning Division for processing. It was subsequently determined that a SPR for remedial grading was required, and SPR No. 10-001 was added to the project description.
- C. On January 12, 2010, a Courtesy Notice for the proposed project was mailed to all property owners and occupants within a 500 foot radius of the subject property.
- D. On January 18, 2010, a Notice of Application for the project was posted on the subject property.
- E. On April 21, 2010, staff visited the project site and the project was deemed complete.
- F. On May 6, 2010, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu.
- G. On May 18, 2010, the Planning Commission held a duly noticed public hearing on the subject applications, reviewed and considered the staff report, reviewed and considered written reports, public testimony and other information in the record.

Section 2. Environmental Review.

Pursuant to the authority and criteria contained in CEQA, the Planning Division has analyzed the proposal as previously described. The Planning Division has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the

1. No Project – The no project alternative would maintain the existing conditions of the slope at both locations. If no action is taken, the slope and its associated drainages would continue to degrade, eventually deteriorating to a level that would pose a safety hazard to maintenance crews and other users of PCH. Adverse effects of the no-project alternative could include deteriorating level of service, emergency closure of lanes, traffic delays, possible detours, emergency repairs and ongoing maintenance costs. The no project alternative is inconsistent with Caltrans' goal of providing an efficient and safe mobility system, and therefore is not a feasible alternative.
2. Alternative Methods – Other storm water control methods such as soil bioengineering and biostructures were considered as an alternative to the standard design proposed. However, non-standard designs would require a separate approval from Caltrans headquarters and could add years of seeking final design approval to the project timeline. Because the project is needed urgently to address the degrading conditions of the slope, the standard repair design was chosen as the most technically feasible and timely solution to correct the conditions onsite. If current onsite conditions are not addressed in a timely manner, expansion of the existing gullies and degradation of dirt and debris into the Ramirez Creek watershed would continue unchecked. Additionally, potential emergency slope and highway repairs requiring more environmentally invasive remediation and more extensive native tree removal than is currently proposed could be required. An alternative method is not the least environmentally damaging alternative.
3. Proposed Project – The project proposes repair two existing drainages by replacing the existing corrugated metal pipe (CMP) and recompacting the existing slope in order to stabilize it. The proposed drainage rehabilitation and slope repair, drainage repair and habitat restoration are located within an existing developed area and are an improvement on the failing slope. Caltrans has submitted a feasible alternatives report demonstrating that the proposed project removes the minimum number of protected native trees, and proposes the offsite planting of more native trees than is required by the LCP. Additionally, the proposed CMP replacement pipes will be the same material as the existing pipes, and was determined to be the most feasible and least intrusive form of pipe. The drainage improvements will not add to existing stream capacity and there will be no increase in runoff. The project as proposed and conditioned is the least environmentally damaging alternative.

**B. Site Plan Review for Remedial Grading (LIP Section 13.27.5)**

Pursuant to LIP Section 13.27.1, an SPR is required for remedial grading which is grading necessary to mitigate an environmental hazard as recommended by a geotechnical or soils report prepared by a licensed professional geologist or geotechnical engineer and approved by the City Geotechnical staff. Based on the foregoing evidence contained within the record and pursuant to LIP Section 13.27, Planning Division staff recommends the approval of SPR No. 10-001 for remedial grading.

*Finding B1. That the project is consistent with policies and provisions of the Malibu LCP.*

As previously stated, the project has been reviewed and analyzed for conformance with the LCP by Planning Division staff and all other referred city agencies and has been determined to be consistent

LIP Section 4.5.2(B) states that flood protection necessary for public safety or to protect existing development is permitted where stream capacity, percolation rates or habitat values are not diminished, which is the case with the proposed restoration project. The proposed flood protection, consisting of drainage rehabilitation, slope repair, and ecological restoration of the project site, are permitted within ESHA. The project has been reviewed and conditionally approved by the City Biologist. Therefore, the project is consistent with the provisions of the ESHA Overlay chapter, specifically LIP Section 4.7.

#### **D. Native Tree Protection (LIP Chapter 5)**

The provisions of the Native Tree Protection Chapter only apply to those areas containing one or more native Oak, California Walnut, Western Sycamore, Alder or Toyon trees that has at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, 4½ feet from the ground. Caltrans is proposing the removal of three Coast Live Oak trees, which meet the definition of protected trees, in order to perform the proposed drainage rehabilitation and slope repair and drainage repair.

*Finding D1. The proposed project is sited and designed to minimize removal of or encroachment in the protected zone of native trees to the maximum extent feasible.*

As discussed in *Finding A3*, the applicant has submitted a feasible alternatives report demonstrating that the proposed project removes the minimum number of protected native trees. Proposed alternatives require the removal of more protected native trees than what is proposed. Accordingly, the project is sited and designed to minimize the removal of or encroachment in the protected zone of native trees to the maximum extent feasible.

*Finding D2. The adverse impact of tree removal and/or encroachment cannot be avoided because there is no other feasible alternative.*

The applicant has demonstrated to the City Biologist's satisfaction that the removal of three native oak trees cannot be feasibly avoided, and that the minimum number of protected trees are being removed.

*Finding D3. All feasible mitigation measures that would substantially lessen any significant impact on native trees have been incorporated into the approved project through design or conditions of approval.*

Pursuant to LIP Section 5.5.2, Caltrans has agreed to plant a minimum of 10 replacement trees for every tree removed and has made arrangements to plant at least 30 Coast Live Oak (*Quercus agrifolia*) at Leo Carrillo State Park. In an effort to further reduce impacts from native tree removal and encroachment, the applicant has offered to plant an additional 40 native trees including Coast Live Oak and California Black Walnut (*Juglans californica*) at Leo Carrillo State Park. Pursuant to LIP Section 5.6.2, the 30 required replacement trees shall be monitored annually for a period of not less than 10 years. The applicant has submitted a monitoring plan that has been conditionally approved by the City Biologist, and conditions of approval have been included in the resolution of this project to require that the annual monitoring reports are provided to the City Biologist.

**F. Transfer Development Credits (LIP Chapter 7)**

No land division or new multi-family development is proposed. Therefore, LIP Chapter 7 does not apply.

**G. Hazards (LIP Chapter 9)**

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards must be included in support of all approvals, denials or conditional approvals of development located in or near an area subject to these hazards. The project was analyzed for the hazards listed in the LIP Section 9.2(A)(1-7) by the City Biologist, City Geologist, City Environmental Health Administrator and the City Public Works Department, and has been determined to be consistent with all relevant policies and regulations of the LCP. Nonetheless, the findings set forth in LIP Chapter 9 are made as follows.

*Finding G1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.*

The General Plan shows the project site is in a extreme fire hazards area. Review of City CityGIS indicates that the project area is located within an area of seismic liquefaction. In addition, Flood Insurance Rate Map No. 06037C1518F indicates that the project area is located within the Zone AE Special Flood Hazard Area (SFHA), which is subject to flooding by the 1 percent chance annual flood, and Zone X SFHA, which is an area with a 0.2 percent chance annual flood. However, the project does not propose any habitable structures. The proposed improvements are intended to improve the safety and operation of the roadway and to preserve the integrity of the existing facility, while preventing further deterioration of the highway and its surrounding environs pursuant to Section 100 of the California Streets and Highway Code. The present project would not expose people or structures to potential substantial adverse effects, including risk of loss, injury, or death due to strong seismic ground shaking or rupture of a known earthquake fault.

*Finding G2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.*

As stated in *Finding G1*, the proposed project will not have any significant adverse impacts on the site stability or structural integrity. The project will comply with standard Caltrans conditions.

*Finding G3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.*

As discussed previously in *Finding A3*, the project is the least environmentally damaging alternative.

*Finding G4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.*

actions or decisions in connection with this project, with the exception of the sole act of negligence by the City. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. The approved project consists of a drainage rehabilitation, slope repair and offsite native tree mitigation along the northbound shoulder of Pacific Coast Highway, including the following:
  - a. Drainage 1: The existing 18-inch diameter corrugated metal pipe (CMP) drainage will be removed and replaced with a longer 18-inch CMP drainage that will extend further down the slope into the canyon. The length of pipe will be approximately 32 feet in horizontal distance from PCH and will require additional easements from the property owner, which have been obtained by Caltrans. A 15 foot wide area will be excavated along the slope to remove any unstable fill material. Imported fill material will be re-compacted on the slope via benching and will include the addition of geo-fabric to help stabilize the slope. Rock slope protection approximately five feet in length and two feet in height will be added around the outlet of the drainages to prevent erosion. The proposed pipe outfall will terminate prior to Ramirez Canyon Wash. Grubbing of vegetation will occur to gain access to the bottom of the canyon for equipment, as well as to backfill the slope. A temporary access road will be graded within the project grading limits to access this drainage.
  - b. Drainage 2: The existing 18-inch diameter CMP drainage will be removed and replaced with a longer 24-inch diameter CMP drainage that will extend further down the slope into the canyon. The length of pipe will be approximately 75 feet in horizontal distance from PCH and will require additional easements from the owner that have been obtained by Caltrans. The other improvements proposed for Drainage 1 will also be implemented for Drainage 2.
  - c. The proposed project will require the removal of five trees, three of which are Coast Live Oaks which qualify for protection under the LCP Native Tree Protection Chapter. Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 5.5.1(B) requires that protected trees be replaced at a 10 to 1 ratio. Additionally, LIP Section 5.5.2(a) states that if on-site planting is not feasible, off-site planting may occur provided that the site falls within public parkland, meets the required 10 to 1 ratio, and all replacement oak trees are grown from acorns collected in the area.

Caltrans has concluded that the cost of replacing the trees at the project site would exceed available funds for the project. As a result, Caltrans will plant all replacement trees off-site at Leo Carrillo State Park. The trees will be planted around existing parking areas to maximize shading. In addition to the 30 replacement trees required by the LIP, Caltrans will plant an additional 40 native trees consisting of Coastal Live Oak and California Walnut. Caltrans has provided a 10 year monitoring plan to ensure the survival of the proposed trees, which has been conditionally approved by the City Biologist. In addition, Caltrans has submitted a letter (Attachment 5) stating that the contractor selected for the project will need to follow specific tree protection guidelines. Caltrans is in the process of obtaining a Right of Entry permit from California State Parks. The project has been conditioned to require that the Right of Entry permit will be obtained prior to the start of the rehabilitation project and a copy provided to the City.

- d. New landscaping will be installed in order to stabilize the slope and replace vegetation removed in the

permit is not effective until all appeals, including those to the California Coastal Commission, have been exhausted. In the event that the California Coastal Commission denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.

### **Cultural Resources**

11. An onsite archaeologist monitor shall be present for all grading and construction activities performed at the project site located at 6341.5 Ramirez Canyon Road. Should the presence of important prehistoric cultural resources or ethnohistoric Chumash cultural resources be found, an evaluation and Phase III mitigation program shall be conducted in consultation with a qualified Chumash cultural resource monitor. The planning director shall review and approve all design/work plans for Phase III mitigation programs and reports which detail the evaluative techniques and results.
12. If potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Manager can review this information. Where, as a result of this evaluation, the Planning Manager determines that the project may have an adverse impact on cultural resources; a Phase II Evaluation of cultural resources shall be required pursuant to LIP Section 11.3(F).
13. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

### *Construction*

14. The applicant shall provide the City of Malibu with a construction schedule a minimum of one month prior to the start of construction.
15. The applicant shall notify the City of Malibu of the project start date a minimum of 10 days prior to the start of grading and construction.

### *Geology*

16. Caltrans shall provide City Geotechnical staff with a compaction report upon completion of grading.

### *Biology*

17. Pursuant to Section 5.3 of the LIP:
  - a. New development shall be sited and designed to preserve oak, walnut, sycamore, alder, and toyon, as identified by LIP Section 5.2, to the maximum extent feasible.



19. Pursuant to LIP Section 3.10.1, Cut and fill areas disturbed by construction activities (including areas disturbed by fuel modification and brush clearance) shall be landscaped or revegetated. The submitted plans and associated documentation provide a planting plan that shall be followed as a condition of approval for this project. All hydro-seed mix utilized on the project site shall consist only of appropriate coastal scrub species native to the Santa Monica Mountains area.
20. Grading shall be scheduled only during the dry season from April 1-October 31st. If it becomes necessary to conduct grading activities from November 1-March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.
21. Grading, demolition, or other site preparation activities scheduled between February 1<sup>st</sup> and July 30<sup>th</sup> will require nesting bird surveys by a qualified biologist. Surveys will be completed within five (5) days of initiation of any site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (250 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City Biologist prior to ANY vegetation removal on site.
22. Construction fencing shall be installed within five (5) feet of the limits of grading prior to the beginning of any construction and shall be maintained throughout the construction period to protect the site's sensitive habitat areas.
23. Upon completion of all on-site planting, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the conditions outlined in this review.

#### *Public Works*

24. Caltrans has been issued a separate permit to cover construction projects within the State right-of-way. The applicant shall comply with the State permit to protect the public and to assure that the slope is revegetated within a year of the construction.

#### *Site- Specific Conditions*

25. The applicant shall submit a Right of Entry Permit from California State Parks for the proposed offsite native tree mitigation prior to beginning work. A copy of this permit shall be submitted to the Planning Division.
26. No more than one lane of Pacific Coast Highway will be closed at a time. No lanes shall be closed after four p.m. on weekdays and no lanes shall be closed on weekends.
27. Work is not to commence prior to August 1, 2010.

#### *Fixed Conditions*

28. This coastal development permit runs with the land and binds all future owners of the property.

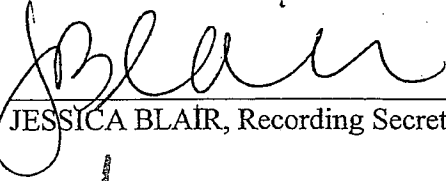
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 10-46 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 18<sup>th</sup> day of May 2010, by the following vote:

AYES: COMMISSIONERS: JENNINGS, STACK AND MAZZA

NOES:

ABSTAIN:

ABSENT: COMMISSIONERS: HOUSE AND GILLESPIE

A handwritten signature in cursive script, appearing to read "Blair", is written over a horizontal line.

JESSICA BLAIR, Recording Secretary